

SEP 10 1998

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 File:NPCD/FOB;CHRON-READING;AUTHOR:/KEYWORD: Tracy -/- Decon and
 Sampling of contaminated materials

Mr. Brent Tracy
 Holme Roberts and Owen, LLP
 1700 Lincoln Street, Suite 4100
 Denver, CO 80203

Dear Mr. Tracy

This letter is in response to your letter to Laura Casey of my staff (attached) regarding the amendments to the PCB regulations at 40 CFR Part 761, better known as the PCB Disposal Amendments. The new regulations were published in the Federal Register on June 29, 1998 and became effective on August 28, 1998.

Thank you for bringing the misprint on page 35458 of the 63 Federal Register to our attention. EPA will be making technical corrections to these regulations including the change in this reference from (c)(8) to (c)(6). This technical correction and others may be found on our branch website at "www.epa.gov/opptintr/pcb". Please note in the technical corrections document that §761.79 (c)(6) has also been revised. As for conducting decontamination according to the procedures specified at §761.79(c)(6) without an approval obtained under §761.79(h), it is not necessary to obtain approval under §761.79(h) as long as decontamination is in accordance with the procedures at §761.79(c)(6). If you chose not to adhere to or are unable to follow the specified procedures under §761.79(c)(6) and wish to submit your own risk based decontamination and/or sampling plan then you may do so under §761.79(h). Please bear in mind that the submittal of a risk based plan can be time consuming and costly.

In regards to your question concerning "metal bulk product waste which has been contaminated with a PCB-containing non-porous (paint on metal)", §761.62, Disposal of PCB Bulk Product Waste, offers a number of methods to dispose of this type of material that does not require sampling. If you are still concerned about sampling prior to disposal and you feel that none of the options proposed in this section are applicable to your situation, then you may propose your own risk-based sampling and/or disposal plan according to §761.62(c). There are also options under §761.79 that would allow the decontamination of your material prior to disposal, use or reuse. These may only require confirmatory sampling, for example, in accordance

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with Subpart P, or procedural documentation. Again, please bear in mind that the submittal of any risk based plans can be time consuming and costly.

Should you have any further questions, please contact me at (202)-260-3933.

Sincerely

Tony Baney, Chief
Fibers and Organics Branch

Enclosure

cc: Laura Casey

Holme Roberts & Owen LLP



August 20, 1998

Via Facsimile
202/260-1724

Ms. Laura Casey
Mail Code 7404
Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Ms. Casey:

Last week I spoke with you regarding some questions on the PCB Disposal rule promulgated by EPA on June 29, 1998 (63 Fed. Reg. 35,384). You suggested we put our questions in a written form and you would respond with written answers. This letter contains our questions.

Attorneys at Law

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1. In the Decontamination standards (§ 761.79), paragraph (a)(5) of that section states, "Any person decontaminating porous surfaces other than concrete under paragraph (b)(4) of this section and non-porous surfaces covered with a porous surface, such as paint or coating on metal, under paragraph (b)(3) or (c)(8) of this section must obtain an alternative decontamination approval in accordance with paragraph (h) of this section." 63 Fed. Reg. at 35,458. However, there is no paragraph (c)(8) in this section. Should this be (c)(6)? If someone wished to decontaminate a metal surface with PCB-contaminated paint, could this be done (after the effective date) by § 761.79(c)(6) without approval under § 761.79(h)?

2. The new rule does not specify a sampling procedure for metal bulk product waste which has been contaminated with a PCB-containing non-porous surface (paint on metal). What procedure should be used to sample the painted metal to determine whether it is subject to the rule (i.e., greater than 50 ppm) or subject to different standards (such as for decontamination) because it is over 500 ppm?

Holme Roberts & Owen LLP

Ms. Laura Casey
Environmental Protection Agency
August 20, 1998
Page 2

Please respond to these questions. Your response may be faxed to my attention at (303) 866-0200. If you have any questions, you may either call me at (303) 866-0479 or Jay McCarthy at (303) 866-0457. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Brent Tracy".

Brent Tracy
Law Clerk

BT/bmh



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 10 1998

OFFICE OF
PREVENTION, PESTICIDES AND
TOXIC SUBSTANCES

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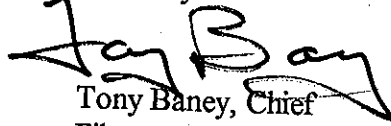
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with Subpart P, or procedural documentation. Again, please bear in mind that the submittal of any risk based plans can be time consuming and costly.

Should you have any further questions, please contact me at (202)-260-3933.

Sincerely

A handwritten signature in black ink, appearing to read "Tony Baney". The signature is stylized with a large, looped "T" and a cursive "Baney".

Tony Baney, Chief
Fibers and Organics Branch

Enclosure

cc: Laura Casey